

EXHIBIT

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1 issue, possibly; and two, direct contact.

2 So what I'm interested in to know, right,
3 to evaluate this, is, one, right, when was the
4 contact, right? Because we have got to start there:
5 Dates of the contact.

6 Two, who was the contact with, right?
7 Three, was the contact between -- is class counsel
8 saying that the opt-in plaintiff contacted a
9 particular person? And if so, what was the
10 connection there? Who was the opt-in plaintiff and
11 who did they call, right?

12 Or is class counsel saying they contacted
13 somebody directly? Let's get the name. Let's get
14 the date of that contact. And if class counsel is
15 saying somebody called them, let's find out who and
16 when that happened. I'm trying to come at it like a
17 spreadsheet, right?

18 Right. Because it would be very
19 interesting for me to see how many people the opt-in
20 plaintiffs called because that would be either
21 interesting or not interesting, because when I'm
22 looking at the class list and I know when people
23 worked, I can easily figure that out.

24 Like somebody -- Victoria Sievers contacts
25 somebody else who worked there four years later or

1 THE COURT: Okay.

2 Go ahead, Mr. Kirschenbaum.

3 MR. KIRSCHENBAUM: I just want to be clear
4 as to what happened.

5 THE COURT: Sure.

6 MR. KIRSCHENBAUM: And it might not be as
7 easy to assemble exactly like you're asking for
8 because I just want to be totally straightforward.
9 We did speak to the opt-in plaintiffs, the people
10 who opt-in for the case. We did tell them, we think
11 it would be great if you got a lot of people to
12 opt-in.

13 THE COURT: Okay.

14 MR. KIRSCHENBAUM: But I don't want to
15 apologize for that behavior. That is what we did.
16 That's what we always do. And I -- it's what I
17 believe we're entitled to do.

18 I don't -- like, to the best of
19 Mr. Nussbaum's recollection, to the best of my
20 recollection, we did not actually speak to an absent
21 class member before -- definitely not after 6-30.
22 We don't think even before 6-30.

23 THE COURT: Okay.

24 MR. KIRSCHENBAUM: But, again, we certainly
25 did encourage people to claim the money they were